IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

WP(C).No. 24014 of 2007(H)

PETITIONER:

SMT.MADHUMATHI M., HEADMISTRESS,
BEM. L.P.SCHOOL, TALIPARAMBA, KANNUR DISTRICT.
(NOW UNDER ORDERS OF TRANSFER TO BEM.L.P.SCHOOL, CHITTATUKARA).

BY ADV. SRI.N.RAGHURAJ

RESPONDENTS:
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1. **THE DIRECTOR OF PUBLIC INSTRUCTIONS, THIRUVANANTHAPURAM.**

2. **THE ASSISTANT EDUCATIONAL OFFICER, TALIPARAMBA, TALIPARAMBA NORTH P.O., KANNUR DISTRICT.**

3. **THE CORPORATE MANAGER, C.S.I. SCHOOL OF MALABAR AND WAYANAD, CALICUT - 1.**

4. **P.SAROJINI, HEADMISTRESS, BEM.L.P.SCHOOL, CHITTATTUKARA P.O.**

BY GOVERNMENT PLEADER SMT.M.R.SREELATHA
ADV. SRI.N.N.SUGUNAPALAN (SR.)
SRI.S.SUJIN
SRI.V.RAMKUMAR NAMBIAR
SRI.BABU JOSEPH KURUVATHAZHA(B/O)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE APPOINTMENT ORDER CONTAINING THE ENDORSEMENT OF THE A.E.O., OTTAPPALAM DATED 35.04.2006 ISSUED TO THE PETITIONER.

EXT.P2: COPY OF THE PROCEEDINGS OF THE 3RD RESPONDENT DATED 28.4.2005.

EXT.P3: COPY OF THE REPRESENTATION DATED 25.02.2005, SUBMITTED BY THE 4TH RESPONDENT BEFORE THE 3RD RESPONDENT.

EXT.P4: COPY OF THE COUNTER AFFIDAVIT FILED BY THE 4TH RESPONDENT IN W.P.(C).No.6836 OF 2006 BEFORE THIS HON'BLE COURT.

EXT.P5: COPY OF THE JUDGMENT DATED 2.7.2007 IN W.P.(C).No.6836 OF 2006 OF THIS HON'BLE COURT.

EXT.P6: COPY OF THE STATEMENT OF FACTS FURNISHED BY THE 3RD RESPONDENT DATED 26.7.2007 BEFORE THE 2ND RESPONDENT.

EXT.P7: COPY OF THE PROCEEDINGS BEARING ORDER NO.C.M./DS/07-08/PT-25 DATED 2.8.2007, ISSUED BY THE 3RD RESPONDENT.

RESPONDENTS EXHIBITS:

EXT.P4(A): COPY OF THE COMMUNICATION ADDRESSED BY THE 4TH RESPONDENT TO THE 3RD RESPONDENT DATED 30.7.2007.

EXT.R4(B): COPY OF THE ORDER OF THE 2ND RESPONDENT DATED 14.12.2005.

EXT.R4(C): COPY OF THE COMMUNICATION BY THIS RESPONDENT TO THE 3RD RESPONDENT DATED 20.6.2006.

TRUE COPY

P.A.TO JUDGE

S.SIRI JAGAN,J

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W.P.(C).No.24014 of 2007

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Dated this the 21st day of November, 2007

JUDGMENT

This writ petition is filed by the petitioner being aggrieved by Ext.P7 transfer order by which the petitioner has been transferred from BEM L.P. School, Thaliparamba to BEM L.P. School, Chittattukara as Headmistress and the 4th respondent has been transferred from BEM L.P. School, Chittattukara to BEM L.P. School, Thaliparamba. At the time of admission an interim stay was granted by this court which continues even now. On 14.11.2007 the learned counsel for the petitioner submitted that there is a vacancy at BEM L.P. School, Madayi, under the same Educational Agency, which school is nearer to the house of the 4th respondent than BEM L.P. School, Thaliparamba. The counsel for the petitioner therefore suggested that if the management could accommodate the 4th respondent in that school, the controversy can be easily resolved since both the parties would be satisfied. Therefore, I directed the counsel for the 3rd respondent manager to get instructions as

to whether the 4th respondent can be accommodated in BEM L.P. School, Madayi. Today the counsel for the 3rd respondent submits that although there is a vacancy at BEM L.P. School, Madayi, the same is a leave vacancy and therefore if the incumbent on leave cancels the leave the vacancy would cease. Apparently because it is a leave vacancy the 4th respondent also opposes the said course of action. But it is not disputed before me that BEM L.P School, Madayi is closer to the house of the 4th respondent than BEM L.P. School, Thaliparamba. Therefore, I am satisfied that the controversy can be settled by directing the 3rd respondent to accommodate the 4th respondent in the leave vacancy available at BEM L.P. School, Madayi. This shall be done forth with. This is subject to the condition that if the leave vacancy is terminated it would be open to the 4th respondent to revive this writ petition by filing an appropriate interim application for consideration of the matter on merits. The Educational Authorities are also directed to disburse salary of the 4th respondent which is withheld. The petitioner shall be retained at Thaliparamba, cancelling the order of transfer and passing fresh orders retaining the petitioner at BEM L.P.School,

Thaliparamba and posting the 4th respondent to BEM L.P. School, Madayi.

The writ petition is disposed of accordingly.

S.SIRI JAGAN, JUDGE

dvs